

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CHRISTIAN DEJESUS,)	
)	
Petitioner,)	
)	
v.)	Civ.Act.No. 06-553-JJF
)	
THOMAS CARROLL , Warden)	
and JOSEPH R. BIDEN III , Attorney)	
General for the State of Delaware)	
)	
Respondents. ¹)	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Christian Dejesus, has applied for federal habeas relief, alleging error by the state courts. D.I. 2. By the terms of the Court's order, the answer is due to be filed on January 12, 2007.

2. When Petitioner's brief was initially received by this office, it was incomplete. Counsel informed the Court of the deficiency and Petitioner was instructed to supply the missing portion. Counsel was never noticed that the petition had been completed. Further, counsel has been, and continues to be, diligently working on numerous cases before this Court and the state courts, including the appeal of a first degree murder conviction due next week. However, due to the two vacancies currently in the Appeals Division, the workload for the remaining attorneys has greatly increased.

¹ See Fed.R.Civ.P. 25(d)(1). Attorney General Joseph R. Biden III, assumed office on January 2, 2007, replacing former Attorney General Carl C. Danberg, an original party to this case.

Counsel is doing his best to prioritize cases by date received. Support staff has also been ill within the last week and has been unable to assist in the filing of other matters. Finally, the Chief of the Appeals Division must review all filings prior to submission and has been unable to do so because he has been in trial. In light of the situation, additional time is needed to complete the answer and have it reviewed in the ordinary course of business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' SECOND request for an extension of time in this case.

5. Respondents submit that an extension of time to and including January 22, 2007, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 4612

DATE: January 11, 2007

RULE 7.1.1 CERTIFICATION

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ James T. Wakley
Deputy Attorney General

Counsel for Respondents

Date: January 11, 2007

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2007, I electronically filed the attached documents with the Clerk of Court using CM/ECF. I also hereby certify that on January 11, 2007, I have mailed by United States Postal Service, the same documents to the following non-registered participant:

Christian Dejesus
SBI No. 501798
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
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james.wakley@state.de.us

Date: January 11, 2007

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)	
Respondents.)	

ORDER

This ____ day of _____, 2007,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before January 22, 2007.

United States District Judge